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TO: House Criminal Justice Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
DATE: May 30, 2019
RE: House Bill 1 – Proponent Testimony

To Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for this opportunity to present proponent testimony on House Bill 1.

House Bill 1 is positive movement in the right direction regarding criminal justice reform in Ohio. With a prison system dangerously overcrowded for decades and a persistent belief we can arrest, convict and incarcerate our way out of Ohio's drug problems, acknowledgment the system needs to change is always welcome.

HB 1 is perhaps best understood as the latest of a series of bills over past sessions of the Ohio General Assembly regarding two specific subjects – intervention in lieu of conviction and record sealing.

Intervention in lieu of conviction is an opportunity for a defendant to partake in available alternatives, via a plan developed by and overseen by a court, with the goal of keeping people from entering prison for lower-level offenses.

HB 1 expands intervention in lieu of conviction in several ways: 1) For those with drug and alcohol problems that led to their offense, the court must hold a hearing, 2) a presumption in state law for intervention in lieu of conviction unless a court believes it would be inappropriate, 3) a requirement that judges state on the record why intervention in lieu of conviction was denied, when it is, and 4) places a five-year cap on intervention plans.

With regard to record sealing, HB 1 increases the number of offenses eligible for sealing and also shortens the amount of time under which one may apply for sealing when the issue is multiple charges and convictions arising from the same act.

Record sealing provides an opportunity for those who have, as they say, done the crime and done the time, to try and put that period of their life behind them. As this committee is aware, felony records follow many around for the rest of their lives, negatively affecting their employment, housing, education, and more. For this reason, Ohio continues to expand record sealing, including with HB 1.

While we support HB 1, the ACLU of Ohio also cautions this committee regarding its potential impact. The expansion of intervention in lieu of conviction found in the bill ultimately may not have the positive effects intended. While HB 1 provides greater opportunity for intervention in lieu of conviction, judges may still deny it. With HB 1, they only have to be more transparent regarding those denials. Of course, requiring data collection and reporting in HB 1 so we can determine how effective HB 1 is – or is not – would be a significant improvement. As well, in an age where so much information can be found online, record sealing does help but also has its limitations.

We are also concerned HB 1 will be framed as an alternative to Senate Bill 3, the drug-sentencing bill currently under consideration in the Senate. The ACLU of Ohio encourages you to pass both. Much-needed reform of our criminal justice system should never be limited to one bill. In truth, Ohio needs much more than HB 1 and SB 3.

Our prisons have been overcrowded for decades. House Bill 86, enacted almost eight years ago, was the Ohio General Assembly's last foray into significant reform. But, it did not reduce prison numbers, as hoped. Drug possession is still the number one reason people land in Ohio prisons. After last session's passage of Senate Bill 1 (fentanyl laws) and Senate Bill 201 (indefinite sentencing), our prison population numbers will eventually reach record numbers.

The ACLU of Ohio urges you to pass House Bill 1 but please be advised HB 1 alone is not the ultimate answer for this myriad of criminal justice problems and issues. But, it can play a part and hopefully will. Again, we encourage this committee's approval.